IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6718 OF 2006

Shivaji Vishnu Kshirsagar & Ors. ...Petitioners

vs.

Sayaji Vitthal Ksahirsagar & Anr. ...Respondents

Mr.P.J.Shinde for the Petitioners

CORAM: A.S.OKA,J.
DATE : JUNE 15, 2007.

P.C.:

1. Heard learned Advocate for the Petitioners. The challenge in this Petition under Article 227 of Constitution of India is to the order dated 11th august 2006 passed by the Appellate Court in an Appeal preferred by the first Respondents for challenging the decree passed in favour of the Petitioner by the impugned order, the alleged disputed document along with the alleged admitted documents have been ordered to be sent to the handwriting expert for obtaining his opinion.

2. The learned Advocate for the Petitioner submitted that an application praying for similar relief was rejected by the Trial Court and therefore, the Appellate Court could not have referred the document to the hand writing expert.

3. Apart from the fact that the order is of interlocutory nature, it is well settled position of law that the opinion of

the handwriting expert is never conclusive. The Apex Court has held that the evidence in the form of report of handwriting expert is to be considered with great caution. Apart from this fact, under Rule 10 of Order XXVI of the Code of Civil Procedure,1908, it will be open for both the parties to examine the handwriting expert on oath. Considering the aforesaid facts and circumstances of the case, no case is made out for interference. Petition is rejected.

4. All contentions of the parties on merits are expressly kept open.

JUDGE